

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 TEL AVIV 000648

SIPDIS

NSC FOR ABRAMS/DANIN

E.O. 12958: DECL: 02/01/2015

TAGS: [PREL PHUM KWBG IS JE GOI INTERNAL ISRAELI PALESTINIAN AFFAIRS](#)

SUBJECT: ATTORNEY GENERAL MAZUZ CANCELS CHANGES IN
IMPLEMENTATION OF ABSENTEE PROPERTY LAW IN JERUSALEM

REF: TEL AVIV 594

Classified By: Ambassador Daniel C. Kurtzer for Reasons 1.4 (b,d)

1. (C) Summary. Deputy Prime Minister and MOIT Minister Olmert confirmed to the Ambassador February 1 that AG Mazuz has reversed the GOI decision of July 2004 concerning application of the Absentee Property Law to East Jerusalem. He also passed us a copy of Mazuz's decision. Separately, Deputy Attorney General Mike Glass informed Deputy Economic Counselor that Mazuz's decision was the result of intense international pressure. Mazuz's decision was conveyed in a January 31 letter to members of the Cabinet; it raises fundamental questions about the legal basis for applying the APL to East Jerusalem properties. End Summary.

Olmert Confirms Mazuz Reversal to Ambassador

2. (C) Deputy Prime Minister Ehud Olmert informed the Ambassador that Mazuz had acted decisively to reverse the Cabinet's decision of last summer that would permit changes in the implementation of the Absentee Property Law (APL) in Jerusalem. Olmert said the issue was quite complicated, a point underscored in the written opinion of Mazuz that Olmert shared with the Ambassador. Olmert said the issue came down to whether a special Ministerial committee on Jerusalem had the authority to change a ruling of the Attorney General in 1968 that prevented the custodian of absentee property from disposing of property in Jerusalem. In 1968, the Attorney General had ruled that, since Palestinians had not of their own accord made themselves absent from property in Jerusalem -- in fact, it was Israel's occupation of Jerusalem and its decision to change Jerusalem's status that created the change -- the custodian could not dispose of such property. Over the years this decision was reaffirmed from time to time and was challenged only last summer, when two members of a Ministerial advisory committee on Jerusalem -- Natan Sharansky and Zvulun Orlev, voted to give the custodian authority to dispose of absentee property in Jerusalem. Part of their reason for making this change was to facilitate the state's ability to seize property for the construction of the security barrier in Jerusalem. In July, the Cabinet approved this measure, but Olmert said the issue passed through the Cabinet with no one paying any attention to it or its ramifications.

3. (C) In a conversation with Deputy Economic Counselor, Deputy AG Glass, who called the issue "a tempest in a teapot," noted that intense pressure from the U.S. and other parties had led to Mazuz's decision. Glass noted the decision requires the AG's personal approval of any GOI attempt to apply the APL to East Jerusalem properties. According to Glass, this was the procedure used by the GOI prior to last July's government decision. Glass also noted that the Ministry of Justice is continuing to work on procedures that would allow West Bank Palestinians to access their property on the other side of the security barrier in East Jerusalem. He would not speculate when these procedures would be finalized, however.

The Mazuz Decision

4. (C) While mainly concerned with enumerating the detailed history of the APL and its application, the letter also notes that:

-- The Israeli Supreme Court had ruled in the past that the APL's definition of "absentee" was unusually broad;

-- Although the GOI's decision to apply all GOI laws to East Jerusalem following the Six Day war included the APL, "the absenteeism of property belonging to West Bank residents is technical in nature, as they were turned into absentee landholders as a result of a unilateral operation by the State of Israel." This application is thus not in accordance with the original purpose of the law;

-- The APL does not provide for compensation;

-- The state has an "obligation to honor the property rights of residents in areas which are being held as a result of a military seizure;"

-- The Ministry of Justice opposed the change in application of the APL last summer;

-- International concern over the separation barrier makes it inopportune to "open new fronts in the international arena" at this time; all of which leads to Mazuz's bottom line decision that

-- "This (July 2004) decision can not stand."

Visit Embassy Tel Aviv's Classified Website:

<http://www.state.sgov.gov/p/nea/telaviv>

You can also access this site through the State Department's Classified SIPRNET website.

KURTZER